

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

DAVID LADON MCDANIEL,

Plaintiff,

V.

NCO FINANCIAL SYSTEMS, INC.,

Defendant.

Civil Action No.

~~4:10 CV-~~ **97**

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for statutory damages brought by David LaDon McDaniel (hereinafter, “Plaintiff”) against NCO Financial Systems, Inc., (hereinafter, “Defendant”), for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter, “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. This honorable Court shall have jurisdiction pursuant to 15 U.S.C. §

1692k and 28 U.S.C. § 1331.

III. VENUE

3. Venue in this District is proper because Defendant transacts business in this District and because the conduct complained of occurred in this District.

IV. PARTIES

4. Plaintiff is a natural person residing at 4 Pine Hill Drive, Rome, Floyd County, Georgia 30165.

5. Defendant is a Pennsylvania corporation engaged in the business of collecting debt in this State with its principal place of business, as listed with the Pennsylvania Department of State, located at 507 Prudential Road, Horsham, Pennsylvania 19044-0. No registered agent for service of process is identified by the Pennsylvania Department of State. Defendant's President, however, is identified as Nichael (presumably typographical error when attempting to enter "Michael") Barrist, 507 Prudential Road, Horsham, Pennsylvania 19044-46. Defendant is registered with the Georgia Secretary of State and maintains a principal office at 3850 N. Causeway Boulevard, #200, Metairie, Louisiana 70002. Defendant's registered agent for service of process in Georgia is C T Corporation System, 1201 Peachtree Street, NE, Atlanta, Georgia 30361. The Georgia

Secretary of State lists Defendant's President as Michael Barrist, 507 Prudential Road, Horsham, Pennsylvania 19044. Defendant regularly attempts to collect debts alleged to be due another.

6. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant satisfies the definition of "debt collector" as defined by FDCPA, 15 U.S.C. § 1692a(6).

V. FACTUAL ALLEGATIONS

7. Plaintiff filed for bankruptcy protection under Chapter 7 of Title 11 of the United States Code on July 23, 2007 (Case No. 07-41750).

8. The petition and schedules filed in Plaintiff's bankruptcy case duly reported debt owed to Verizon Wireless for cellular telephone service.

9. Plaintiff received a discharge under 11 U.S.C. § 727 on October 25, 2007, rendering all properly scheduled, non-priority debts uncollectable.

10. To date, Plaintiff has not used telephone services provided by Verizon Wireless at any time following his October 25, 2007 discharge.

11. On or about December 25, 2007, Plaintiff received a bill from Verizon Wireless attempting to collect on the debt discharged through Plaintiff's bankruptcy (Case No. 07-41750).

12. On or about January 25, 2008, Plaintiff received a bill from Verizon Wireless attempting to collect on the debt discharged through Plaintiff's bankruptcy (Case No. 07-41750).

13. On or about February 2, 2008, Plaintiff received a telephone call while at work from representatives of Verizon Wireless attempting to collect on the debt discharged through Plaintiff's bankruptcy case (Case No. 07-41750).

14. On or about February 25, 2008, Plaintiff received a bill from Verizon Wireless attempting to collect on the debt discharged through Plaintiff's bankruptcy (Case No. 07-41750).

15. The bill generated by Verizon Wireless was accompanied by a collection letter from Vantage Sourcing, LLC in which Vantage Sourcing, LLC purported to be an agent authorized by Verizon Wireless to collect on behalf of Verizon Wireless.

16. On March 31, 2008, Terry Haygood, Plaintiff's attorney, sent a letter via certified mail to Vantage Sourcing, LLC and Verizon Wireless to notify them that their attempts to collect the debt in question following October 25, 2007 violated the discharge Plaintiff received under 11 U.S.C. § 727 on October 25, 2007 and demanding that they cease any and all collection efforts.

17. On July 24, 2009, Defendant sent Plaintiff a letter to collect on a consumer debt Plaintiff purportedly owes to Verizon Wireless.

18. The letter identified Defendant as the entity authorized by Verizon Wireless to collect the purported debt.

19. On August 21, 2009, Plaintiff's attorney, Terry Haygood, sent a letter via certified mail to Defendant informing it that Plaintiff was represented by counsel, demanding that Defendant cease further direct contact with Plaintiff, disputing the debt purportedly owed Defendant, requesting the name and address of the original creditor, and requesting verification of the purported debt.

20. To date, Defendant has not responded to Plaintiff's attorney with a verification of the purported debt or the name and address of the original creditor.

VI. FIRST CLAIM FOR RELIEF

FAIR DEBT COLLECTION PRACTICES ACT

21. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

22. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

- (a) Defendant violated 15 U.S.C. § 1692 g(a)(4) by failing to provide verification of the debt in response to a timely written request.

(b) Defendant violated 15 U.S.C. § 1692 g(a)(5) by failing to provide the name and address of the original creditor following a timely written request.

(c) Defendant violated 15 U.S.C. § 1692 e(5) by threatening to take action it is not legally able to take – i.e. by threatening to collect on Plaintiff's account when said account has been discharged through 11 U.S.C. § 727.

(d) Defendant violated 15 U.S.C. § 1692 f(1) by attempting to collect a debt discharged through 11 U.S.C. § 727, collection of which is thereby prohibited by federal law.

23. As a result of the foregoing violations of the FDCPA, Defendant is liable to Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA, statutory damages, and costs of attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for the following:

- A. Declaratory Judgment that the conduct of Defendant violated the FDCPA;
- B. Statutory damages pursuant to 15 U.S.C. § 1692k;
- C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. §§ 1692k *et seq.*;


D. For such other and further relief as the Court may deem just and proper.

Demand for Jury Trial

The Plaintiff demands trial by jury for all issues so triable.

This _____ day of _____, 2010.

Terry Haygood
Attorney for Plaintiff
State Bar No. 340567
Law Office of Terry Haygood
401 Broad Street, Ste. 102
Rome, GA 30161
(706) 232-2222
terryhaygood@terryhaygood.com



Thomas D. Womack
Attorney for Plaintiff
State Bar No. 572724
Law Office of Terry Haygood
215 Main Street
Dallas, GA 30132
(770) 445-1553
twomack84@gmail.com

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DAVID LADON MCDANIEL,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
NCO FINANCIAL SYSTEMS, INC.,)	
)	
Defendant.)	
)	

CERTIFICATE OF SERVICE

This is to certify that on this date I have served a copy of Complaint and Demand for Jury Trial to Defendant NCO Financial Systems, Inc., by depositing a copy of the same in the United States Mail in a properly addressed envelope with adequate postage thereon to:

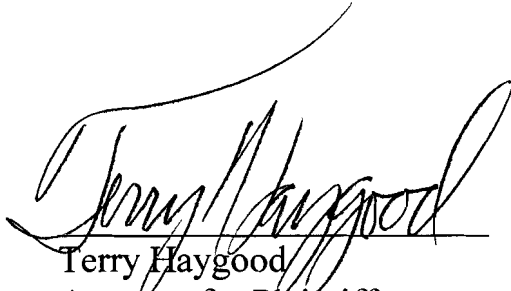
Michael Barrist, President
NCO Financial Systems, Inc.
507 Prudential Road
Horsham, Pennsylvania 19044

NCO Financial Systems, Inc.
507 Prudential Road
Horsham, Pennsylvania 19044-0

NCO Financial Systems, Inc.
3850 N. Causeway Boulevard, #200
Metairie, Louisiana 70002

C T Corporation System
Registered Agent for NCO Financial Systems, Inc.
1201 Peachtree Street, NE
Atlanta, Georgia 30361

This _____ day of _____ 2010.

A handwritten signature in black ink, appearing to read "Terry Haygood", written over a horizontal line.

Terry Haygood
Attorney for Plaintiff
State Bar No. 340567
Law Office of Terry Haygood
401 Broad Street, Ste. 102
Rome, GA 30161
(706) 232-2222
terryhaygood@terryhaygood.com

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas D. Womack", written over a horizontal line.

Thomas D. Womack
Attorney for Plaintiff
State Bar No. 572724
Law Office of Terry Haygood
215 Main Street
Dallas, GA 30132
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twomack84@gmail.com